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Date: September 21, 2004tesa AG 1523-WCG  
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellants : Marc Hausemann, et al.  
Serial No. : 10/075,041  
Filed : February 12, 2002  
For : PRESSURE SENSITIVE ADHESIVE FEATURING LOW  
OUTGASSING  
Art Unit : 1711  
Examiner : Olga Asinovsky

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September 21, 2004

Mail Stop Appeal Brief - Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

APPELLANTS' BRIEF ON APPEAL PURSUANT TO 37 CFR § 1.192

Sir:

This is an appeal from the final rejection by an Examiner of Art Unit 1711.

1. REAL PARTY IN INTEREST

The instant application is owned by tesa AG, record owner hereof.

2. RELATED APPEALS AND INTERFERENCES

The undersigned is not aware of any appeals, interferences, reexaminations,  
infringement actions or the like in any related applications.

### 3. STATUS OF CLAIMS

The claims pending in this application are claims 1-14, of which claims 7-12 and 14 have been withdrawn from consideration as drawn to non-elected subject matter. The claims under appeal are therefore claims 1-6 and 13.

### 4. STATUS OF AMENDMENTS

The last amendment was the Preliminary Amendment filed on February 12, 2002 and that amendment was entered. There are no outstanding amendments.

### 5. SUMMARY OF THE INVENTION

Each of the appealed claims relates to a novel pressure-sensitive adhesive composition, which has an at least two-phase domain structure and a outgassing level of less than 10 µg/g.

Appellants have made the surprising discovery that the outgassing of pressure-sensitive adhesive compositions can be lowered considerably by preparing them such that they are able to form multiphase domains (page 3, lines 26-28).

### 6. ISSUES

The issues are

A) Whether claims 1-6 and 13 are unpatentable for obviousness-type double patenting over claims 1, 2 and 11 of copending application No. 10/077,658.

B) Whether claims 1-6 and 13 are unpatentable under 35 USC 103(a)

as obvious over Pakusch et al (U.S. 6,552,116) in view of Haak et al (U.S. 6,126,865.

#### 7. GROUPING OF CLAIMS

For each ground of rejection, the claims stand and fall together.

#### 8. ARGUMENTS

A) The rejection of claims 1-6 and 13 for obviousness-type double patenting over copending Application No. 10/077,658 is obviated by the Terminal Disclaimer annexed to the Supplemental Rule 116 Response being filed simultaneously herewith.

It is believed that the Terminal Disclaimer annexed to the Supplemental Rule 116 Response filed simultaneously herewith obviates this rejection,

B) The rejection of claim 1-6 and 13 under 35 USC 103(a) as obvious over Pakusch et al (US 6,552,116) In view of Haak et al (U.S. 6,126,865

Appellants' claims are drawn to a pressure-sensitive adhesive composition...which has an at least two-phase domain structure, and a defined low outgassing level. Appellants compositions are exemplified e.g. by block copolymers of the P(A)-P(B)-P(A) structure (claim 2). The structure therefore comprises distinct blocks, and is characterized by an at least two-phase domain structure.

Pakusch has nothing to do with a pressure-sensitive adhesive. The fact that a paint adheres to the surface it is applied to does not make it a pressure-sensitive adhesive. A pressure-sensitive adhesive adheres to the surface (i.e., a base film or support) to which it is applied, and also will adhere to something that is brought into contact with the side of the pressure sensitive adhesive opposite that which is adhered to the base film or support. A paint does not have this property. No person skilled in the art would ever call a paint a pressure-sensitive adhesive. Pakusch has nothing to do with pressure-sensitive adhesives, and does not in any way render Appellants' pressure-sensitive adhesive obvious.

The Examiner sees Haak as disclosing a two-phase domain pressure-sensitive adhesive. The Board will note however that in the Examples all of the reactive monomers are formed into a premix and polymerized to form a syrup. A photoinitiator is added, the syrup is then applied to a surface and the polymerization completed. The end product is clearly not a block copolymer, **and does not have a two-phase domain structure.**

In addition, nothing in Haak could ever change Pakusch's paint to a pressure-sensitive adhesive, let alone one with a two-phase domain structure!

The rejection of claims 1-6 and 13 under 35 USC 103(a) as obvious over Pakusch in view of Haak should now be REVERSED.

**9. CONCLUSION**

Wherefore it is submitted that the final rejection is in error and should be  
**REVERSED.**

**CONDITIONAL PETITION FOR EXTENSION OF TIME**

If any extension of time for this response is required, appellant requests that  
this be considered a petition therefor. Please charge the required Petition fee to Deposit  
Account No. 14-1263.


ADDITIONAL FEE

Please charge any insufficiency of fees, or credit any excess to our Deposit Account

No. 14-1263.

Respectfully submitted,

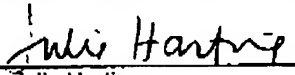
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I hereby certify that this correspondence is being transmitted via facsimile, no. 703-872-9306 to the United States Patent and Trademark Office, addressed to: Mail Stop Appeal Brief - Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on September 21, 2004.

By   
Julie Harting  
Date September 21, 2004

## 10. APPENDIX

The claims are appeal read as follows:

Claim 1. A pressure-sensitive adhesive composition based on (co)polymers of acrylic acid methacrylic acid, derivatives of acrylic acid or methacrylic acid, or combinations thereof, which has an at least two-phase domain structure and also an outgassing level of less than 10 µg/g, based on the weight of the composition, when measured by the tesa method.

Claim 2. The pressure-sensitive adhesive composition as claimed in claim 1, wherein at least some of the (co)polymers are block copolymers of the general type P(A)-P(B)-P(A), where

- P(A) represents a homopolymer or copolymer block of the monomers A, possessing a glass transition temperature of from -80°C to 0°C,
- P(B) represents a homopolymer or copolymer block of the monomers B, possessing a glass transition temperature of from 20°C to 175°C,
- and the homopolymer or copolymer blocks P(A) and the homopolymer or copolymer blocks P(B) are insoluble in one another.

Claim 3. The pressure-sensitive adhesive composition as claimed in claim 1, wherein at least some of the (co)polymers are block copolymers of the general type P(B)-P(A)-P(B), where

- P(A) represents a homopolymer or copolymer block of the monomers A, possessing a glass transition temperature of from -80°C to 0°C,
- P(B) represents a homopolymer or copolymer block of the monomers B, possessing a glass transition temperature of from 20°C to 175°C,
- and the homopolymer or copolymer blocks P(A) and the homopolymer or copolymer blocks P(B) are insoluble in one another.

Claim 4. The pressure-sensitive adhesive composition as claimed in Claim 2 or 3, wherein the monomers A are selected from the group consisting of the acrylates  $\text{CH}_2=\text{CHCOOR}$ , methacrylates  $\text{CH}_2=\text{C}(\text{CH}_3)\text{COOR}$  and combinations thereof, in which the groups R are alkyl radicals having from 4 to 14 carbon atoms.

Claim 5. The pressure-sensitive adhesive composition as claimed in Claim 2 or 3, wherein at least some of the monomers A have a functional group  $\text{R}'$  which is capable of coordinative crosslinking.

Claim 6. The pressure-sensitive adhesive composition as claimed in claim 2 or 3, wherein at least some of the monomers A have a functional group  $\text{R}''$  which possesses a cohesion-enhancing effect for the homopolymer or copolymer  $\text{P}(\text{A})$ , for the overall block copolymer or for both.

Claim 13. The pressure-sensitive adhesive composition of Claim 4, wherein said alkyl radicals have 4 to 9 carbon atoms.

Claim 14. The process of Claim 8, wherein said further carrier distillation is conducted at higher temperatures and lower vacuum than the preceding distillation step.